

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO. 5:15-cv-156

RALEIGH WAKE CITIZENS ASSOCIATION,)
INC, JANNET B. BARNES, BEVERLEY S.)
CLARK, WILLIAM B. CLIFFORD, BRIAN)
FITZSIMMONS, GREG FLYNN, DUSTIN)
MATTHEW INGALLS, AMY T. LEE, ERVIN)
PORTMAN, SUSAN PORTMAN, JANE C.)
ROGERS, BARBARA D.VANDENBERGH,)
JOHN G.VANDENBERGH, AMY WOMBLE,)
and PERRY WOODS,)

Plaintiffs,

v.

THE WAKE COUNTY BOARD OF ELECTIONS,)

Defendant.

JOINT
DISCOVERY PLAN

1. Pursuant to Fed. R. Civ. P. 26(f), a meeting was held on September 11th, 2015 by telephone conference call and was attended by Anita S. Earls and Allison J. Riggs of the Southern Coalition for Social Justice for Plaintiffs, and by Charles F. Marshall and Matthew B. Tynan of Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P. for Defendant.

2. **Pre-Discovery Disclosures.** The parties will exchange by September 25, 2015 the information required by Fed. R. Civ. P. 26(a)(1).

3. **Discovery Plan.** The parties jointly propose to the court the following discovery plan:

The parties agree that discovery will be limited in this case in order to expedite the matter for trial. Given the pendency of election-related deadlines and the legal uncertainty created by

this litigation, parties have agreed to expedited proceedings, including an expedited trial date, in order to avoid Defendant having to incur unnecessary and duplicative public funds in connection with preparing for the County Commissioners' election. The parties have agreed to cooperate and use informal procedures, where appropriate, to have the case ready for trial by December 14, 2015. Discovery will be needed on the following subjects:

- a. Election results and registered voter data.
- b. The Defendant's information, if any, regarding the legislature's intent in enacting the districts challenged in this case.
- c. Facts relevant to Plaintiffs' claim that arbitrary and discriminatory factors explain the population deviations among the districts in the enacted plans.
- d. Facts relevant to Plaintiffs' claim that District 4 in the seven-district plan is racially gerrymandered.

Disclosure or discovery of electronically stored information should be handled as follows:

Other than election returns and voter registration data that may already be publicly available or easily produced, the parties are not aware of electronically stored information in their possession that is relevant to the claims in this case. Provisions for the production of electronically stored information that is in the possession of non-parties and may be subpoenaed will be made with counsel for those non-parties at the appropriate time.

The parties have agreed to an order regarding claims of privilege or of protection as trial preparation material asserted after production, as follows: None contemplated at this time.

All discovery will be commenced in time to be completed by November 16, 2015.

Maximum of 25 interrogatories per side. Responses due 20 days after service.

Maximum of 25 requests for admission per side. Responses due 20 days after service.

Maximum of 10 depositions by plaintiffs and 10 by defendant.

Each deposition limited to maximum of 8 hours unless extended by agreement of parties.

Reports from retained experts under Rule 26(a)(2) due: November 2, 2015 from plaintiffs and from defendant by November 16, 2015.

Supplementations under Rule 26(e) due by November 16, 2015.

4. **Other Items.** The parties agree that consolidation of this action (the County Commission case) with the related case of Wright, et al. v. Wake County Board of Elections, Eastern District of North Carolina, No. 13-cv-607, (the School Board case) is appropriate and warranted for discovery purposes even though the two cases involve different statutes passed in different sessions of the legislature. The School Board case has been pending since August 22, 2013 and the County Commission case involves an additional constitutional claim regarding District 4 that is not alleged in the School Board case. The parties contemplate that some evidence will be relevant to both cases and that duplication of discovery, including depositions, if any, is unnecessary. The parties may file a joint motion for consolidation if required.

The parties request a conference with the court before the entry of the scheduling order.

The parties request a pretrial conference after the close of discovery on November 16, 2015.

Plaintiffs should be allowed until September 25, 2015 to join additional parties and until October 2, 2015 to amend the pleadings.

Defendant should be allowed until October 2, 2015 to join additional parties and until October 9, 2015 to amend the pleadings.

All potentially dispositive motions should be filed by November 30, 2015. Responses to dispositive motions must be filed 7 days after service of the motion, and replies must be filed 3 days after service of the response.

Settlement is unlikely.

Final lists of witnesses and exhibits under Rule 26(a)(3) should be due from plaintiffs November 30 2015 and from defendant by December 7, 2015.

Parties should have 3 days after service of final lists of witnesses and exhibits to list objections under Rule 26(a)(3).

The case should be ready for trial by December 14, 2015 and at this time is expected to take approximately 3 days.

5. Request for Scheduling Conference. Given the request for an expedited trial date and discovery deadlines, the parties respectfully request a conference with the Court to provide additional information and answer any questions about the proposed schedule and the need for expedited proceedings.

Date: September 23, 2015.

/s/ Anita S. Earls

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*Attorneys for Defendant Wake County Board of
Elections*

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing JOINT DISCOVERY PLAN with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel and parties of record.

Additionally, I have served electronic copies by email to the following:

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Counsel for Wake County Board of Elections

This the 23rd day of September, 2015.

/s/ Anita S. Earls
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